

REMARKS:

Claims 1-16 are in the case and presented for consideration.

The Office has objected to the abstract. Although it was not exactly clear what matter was objected to, applicant has deleted the original abstract and provided a new abstract to ensure that only proper language and format is used. The new abstract which accompanies this amendment on a separate sheet is in compliance with 35 C.F.R. § 1.72(b) and MPEP § 608.01(b).

Fig. 7 was amended to include reference numeral 12 corresponding to arresting means at the top and bottom ends of arresting plates 8. The lead line from reference numeral 12 has an arrow at one end indicating general designation. Fig. 8 was amended to include reference numerals 6c and 6h (shown in Fig. 9) which were inadvertently excluded and reference numeral 12 corresponding to arresting means at the top and bottom ends of arresting plates 8. The lead line from reference numeral 12 has an arrow at one end indicating a general designation. Both Figs. 7 and 8 were amended to further include reference numbers 8b and 8c on all sides of the respective top and bottom arresting means 12.

The drawing changes are supported in the specification. The specification describes the arresting portions 8b and 8c as part of an arresting means 12 on page 7, lines 11-12 and lines 22-25, and page 8, lines 1-3. Thus, arresting means 12 is added to Figs. 7 and 8 to generally designate the structures which include arresting portions 8b and 8c. The respective structures designated by arresting portions 8b and 8c are single structures meaning that the respective portions include all sides of the structure designated. Reference numerals 6c and 6h designating guide recess portion and stopper walls respectively were already shown in Fig. 9 and have been added to Fig. 8 in the very

same location shown in Fig. 9. No new matter was added.

Applicant has amended the specification to clarify certain features of the invention. Each of the amendments is supported by the specification. The first amendment has added the features that first arresting portions 8b, 8b, and second arresting portions 8c, 8c are composed of curves formed at opposite end portions which are shown in Figs. 7-8. The added feature of third arresting portions composed of recesses formed among the second arresting portions 8c, 8c is also shown in Figs. 7-8. The arresting portions 8b and 8c are part of an arresting means 12 as described in page 7, lines 11-12 and lines 22-25, and page 8, lines 1-3. Since arresting portion 8d is part of arresting portion 8c (page 8, lines 14-15), it is implied that arresting portion 8d is also part of the arresting means 12. The functionality of the arresting portions is explained in the specification on page 4, lines 9-12 and page 8, lines 9-15. The second amendment has made the correction that screw portions 5a and 5a are female screw portions instead of male screw portions. This feature is shown in Fig. 11 and is therefore supported by the specification. No new matter was added.

Claims 6-8 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Applicant has rewritten the claims and the claims are believed in proper form. Applicant notes that claim 8 was rejected for failure to provide antecedent basis for the limitation "the protruding portion" in line 4. Applicant notes that "protruding portion" was mentioned earlier in claim 8 in line 3. Thus, there is sufficient antecedent basis in the claim for the term "the protruding portion".

Claims 1-4 and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,746,480 to Bonutti. Applicant respectfully traverses the Office's rejection on the

following grounds. Although claim 1 has been rewritten, no substantive changes have been made. The claim was only changed as to form to improve the clarity of the claim for a better understanding of the claim.

Claim 1 now recites "a movable portion to be attached to the second member to make the second member rotatable horizontally at a predetermined sliding position." Bonutti '480 does not teach or suggest a movable portion attached to a second member which makes the second member rotatable horizontally at a predetermined sliding position.

First, as shown in Figs. 7 and 8 of Bonutti '480 and explained in column 5, lines 49-52, "the tenons 192 fit in a mortise 194 in a plastic upper slide member 200. The upper slide member 200 is thus slidably mounted on the lower slide member 190 for movement in a direction parallel to an axis 202". From Figs. 7 and 8, it is clear that tenons 192 are captured within the slot or mortise 194 so that slide member 190 can only slide and is not rotatable with respect to upper slide member 200.

Second, Bonutti '480 also discloses a pivoting connection between support post 170 and support tube 130, wherein support post 170 is rotatable and lower slide member 190 is also rotatable because it is connected to support post 170 by a bolt 182 connection (see col. 5, lines 31-46). The Office has construed lower slide member 190 to be the movable portion as shown in the marked-up copy of Fig. 8 in the Office action. However, lower slide member 190 does not make support post 170, or any other member, rotatable. The pivoting connection makes support post 170 rotatable. Claim 1 requires that the movable portion attached to a member make the member rotatable horizontally. Therefore, Bonutti '480 does not teach or suggest "a movable portion to be attached to the second member to make the second member rotatable horizontally at a predetermined sliding position."

Third, although the member 200 is slidably mounted on the member 190 which may

make member 200 rotatable as well, the Office construes member 200 as the main body portion. Therefore, this interpretation only teaches that the movable portion is slidably attached to the main body portion to make the main body portion rotatable. Even this interpretation does not teach or suggest "a movable portion to be attached to the second member to make the second member rotatable horizontally at a predetermined sliding position," as recited in claim 1.

In summary, member 190, which the Office construes to be "a movable portion" as recited in claim 1, is attached at its bottom end to the post 170 and at its top end to the member 200 (see Fig. 8). Member 190 does not appear to be attached to any other elements. Member 190 does not make attached post 170 rotatable horizontally. Although Member 190 indirectly makes slidably attached member 200 rotatable horizontally, the Office has construed attached member 200 as the main body portion and not a second member. Claim 1 requires that a movable portion be attached to a second member to make the second member rotatable horizontally at a predetermined sliding position. This required limitation is not met.

Moreover, the Office has explained its reasoning for the rejection describing the elements and limitations of claim 1, but has not identified which elements of Bonutti '480 are construed as first and second members and has not addressed the limitation of a movable portion attached to a member to make the member rotatable horizontally at a predetermined sliding position, as recited in claim 1. As the Office is no doubt aware, all limitations of a claim must be considered meaningful, and, "the PTO must consider all claim limitations when determining patentability of an invention over the prior art." *In Re Lowry*, 32 USPQ2d 1031, 1034 (Fed Cir. 1994). The Office does not appear to have considered the limitation of a member being rotatable horizontally at a predetermined

sliding position, as recited in claim 1. Otherwise, such consideration would have been shown.

Claims 2-8 depend from claim 1 and are therefore patentable for the same reasons as claim 1.

Claims 1-2 and 5-8 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,073,027 to Norman et al. Applicant traverses the rejection on the following grounds.

As explained above, claim 1 recites a movable portion attached to a second member to make the second member rotatable horizontally at a predetermined sliding position. The specification of Norman '027 explains at column 3, lines 56-64:

As best shown in FIGS. 3 and 4, the earpiece portion 22 of the housing includes a raised cover guide 38 having a T-shaped cross-section like the inset wall 24 of the mouthpiece portion 18. The cover guide 38 is inset from the sides 30 and 31 of the housing 12 to form shoulders 44 and 46 along each side of the housing. The cover guide 38 also forms channels 48 and 50 extending adjacent the shoulders 44 and 46. As will be explained in more detail, the cover 14 slides matingly within the channels 48 and 50 of the cover guide 38.

First, the Office has not identified first and second members, or a member to which the movable portion 14 is attached. Second, based on Figs. 2-4 and Fig. 6 and the explanation in the specification of how cover guide 38 and cover 14 are slidingly attached or mounted by mating parts, it is clear that neither of the portions are rotatable, or attached to any member which is rotatable horizontally at a predetermined sliding position. Norman '027 does not teach or suggest at least one limitation recited in claim 1, and therefore, claim 1 is deemed patentable. Again, the Office does not even address the claim limitation of a movable portion attached to the member to make the member rotatable horizontally at a predetermined sliding position. The Office is required to consider each and every

limitation of the claim in order to determine patentability.

Claims 2-8 depend from claim 1 and are therefore patentable for at least the same reasons as claim 1.

Furthermore, The Office rejected claim 5 asserting that "Norman also teaches an arresting means (spring plates) between said main body and said movable portion." The Office also rejected claim 6 stating that arresting plates are disclosed. The Office does not indicate which elements correspond to the spring plates. The undersigned has reviewed Norman '027 in its entirety and is unable to find these elements anywhere in the patent.

New claims 9-16 have been added. No new matter has been added. In particular, claim 9 recites:

said main body provided with a pair of rectangular arresting plates each structured with central flat press portions and arresting means formed on end portions for halting said movable portion at a predetermined position, and an elastic means for slidably biasing said arresting plates against each other.

Some of these elements, such as the arresting plates, were also recited in claim 5 which was rejected by the Office. As explained above in regard to the rejection of claim 5, Norman '027 does not teach or suggest a pair of rectangular arresting plates. Nor does Norman '027 teach or suggest elastic means for slidably biasing said arresting plates against each other. Norman only teaches a spring 56 for biasing the cover 14 from the first position toward the second position. Although an elastic means is taught to bias the cover which the Office deems to be the movable portion, the elastic means does not slidably bias arresting plates against each other. Also, Norman '027 does not teach or suggest a main body provided with rectangular arresting plates structured with central flat press portions.

Finally, none of the cited reference teach or suggest "a movable portion to be attached to the second member to make the second member rotatable horizontally at a

"predetermined sliding position," as already explained above.

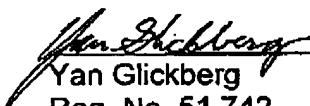
Therefore, claim 9 and all dependent claims are believed to be patentable as well.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

If any issues remain which may be resolved by telephonic communication, the Examiner is respectfully invited to contact the undersigned at the number below, if such will advance the application to allowance.

The undersigned will be contacting the examiner in a few weeks to discuss the claim amendments and remarks. If the case is reviewed before the undersigned has an opportunity to contact the examiner, the examiner is requested to contact the undersigned to discuss the amendments and remarks.

Respectfully submitted,



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IN THE DRAWINGS:

Please amend the drawings as follows. Replacement sheets accompany this amendment.

Please amend Fig. 7 to include reference numeral 12 corresponding to arresting means at the top and bottom ends of arresting plates 8. The lead line has an arrow at one end indicating a general designation.

Please amend Fig. 7 to include reference numeral 8c on all four sides of the arresting means 12 at the top end of arresting plates 8.

Please amend Fig. 7 to include reference numeral 8b on all four sides of the arresting means 12 at the bottom end of arresting plates 8.

Please amend Fig. 7 to change the lead line of reference numeral 8c to a solid line pointing to the correct structure designated by reference numeral 8c in Fig. 8.

Please amend Fig. 8 to include reference numeral 12 corresponding to arresting means at the top and bottom ends of arresting plates 8. The lead line has an arrow at one end indicating a general designation.

Please amend Fig. 8 to include reference numeral 8c on all four sides of the arresting means 12 at the top end of arresting plates 8.

Please amend Fig. 8 to include reference numeral 8b on all four sides of the arresting means 12 at the bottom end of arresting plates 8.

Please amend Fig. 8 to include reference numeral 6c corresponding to a guide recess portion.

Please amend Fig. 8 to include reference numeral 6h corresponding to stopper walls.